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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/457,466 12/08/99 HANDLER

EXAMINER

TM02/1120
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ART UNIT	PAPER NUMBER
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DATE MAILED:

11/20/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/457,466

Applicant(s)

Brad Handler

Examiner

T ngoc Tran

Group Art Unit
2161



☒ Responsive to communication(s) filed on Dec 8, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-6 is/are pending in the applicat

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-6 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4,5

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

1. This Office Action is in response to Applicant's application filed on 12/8/1999. Claims 1-6 are presented for examination.

Information Disclosure Statement

2. The Information Disclosure Statement filed on 3/13/2000 and 5/8/2000 has been reviewed and considered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Korn et al. (WO 99/63461) in view of Fisher et al. (U.S. Patent No. 5,835,896).

Regarding to claim 1, Dinwoodie discloses a method comprising:

updating a current bid associated with the item in a live, in-person auction (see page 6, lines 5-11);

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accepting a bid from an online bidder in the online environment Fig. 1, item 16, page 30-31, page 7, lines 20-28); and

bidding on behalf of the online bidder against one or more live bidders that are participating in the live, in-person auction (see page 7, lines 5-12).

Dinwoodie does not explicitly disclose said bidding on behalf of the online bidder based on the online bidder's maximum proxy price.

However, Fisher discloses an auction manager that perform bidding for online bidder based on online bidder's maximum proxy price (see col. 9, lines 18-24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the bidding process of Dinwoodie to include the feature of Fisher where a proxy bid is submitted on behalf of the bidder that include the maximum proxy price so that it ensure bidder's bidding would not be missed due to communication delay.

Regarding to claim 2, Dinwoodie in view of Fisher discloses the method of claim 1. Fisher further discloses said bidding on behalf of the online bidder comprises bidding an amount that exceeds the current bid so long as the maximum proxy price has not been exceeded and so long as the current bid is not that of the online bidder (see col. 9, lines 18-24). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the proxy bid feature of Fisher continue to bid for bidder online until it reach the maximum proxy price in order to ensure that bidder would not miss the bidding due to communication delay.

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Regarding to claim 3, Dinwoodie in view of Fisher discloses the method of claim 1, further comprising:

prior to the live, in-person auction, establishing a starting bid for the item by performing a pre-auction bidding process in the online environment for a predetermined amount of time (see Fig. 1, item 16, page 30-31 and page 5, line 30-page 6, line 5); and

communicating the starting bid for the item to the live, in person auction (see col. 4, lines 1-12).

Regarding to claim 4, Dinwoodie discloses a method comprising:

establishing a starting bid for an item for a live portion of an auction by

performing a pre-auction bidding process in an online environment for a predetermined amount of time (see Fig. 1, item 16, page 3, lines 30-31, page 5, line 30-page 6, line 5, page 7, lines 22-23);

communicating the starting bid for the item to the live portion of the auction (see page 6, lines 3-11); and during the live auction portion of the auction

updating bidding information associated with the item in the online environment to reflect a current bid associated with the item in the live portion of the auction (see page 6, lines 5-11),

accepting a bid from an online bidder in the online environment reflecting the online bidder's maximum proxy price (see Fig. 1, item 16, page 3, lines 30-31, page 7, lines 20-28), and

bidding against one or more live bidders that are present at the live auction portion of the auction (see page 7, lines 5-12).

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Dinwoodie does not explicitly disclose bidding for bidder online until the maximum proxy price has been met.

However, Fisher discloses an auction manager bidding for online bidder until a maximum proxy price has been met (see col. 9, lines 18-24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the bidding process of Dinwoodie to include the feature of Fisher where a proxy bid is submitted on behalf of the bidder that include the maximum proxy price so that it ensure bidder's bidding would not be missed due to communication delay.

Regarding to claim 5, Dinwoodie discloses a computer system comprising:

a storage device having stored therein a one or more routines for integrating an online bidding process with a live portion of an auction (see Fig. 1, item 16, page 3, lines 30-31, page 5, line 30-page 6, line 5), storage device is inherent when implementing the system on the Internet;

a processor coupled to the storage device for executing the one or more routines to provide feedback to online bidders in an online environment during the live portion of the auction (see page 6, lines 22-32), where:

a starting bid is established for an item for the live portion of the auction by performing a pre-auction bidding process in the online environment for a predetermined amount of time (see Fig. 1, item 16, page 3, line 30-31, page 5, line 30-page 6, line 5, page 7, lines 22-23);

feedback is provided to the online bidders by updating bidding information associated with the item in the online bidders by updating bidding information associated with the item in the

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online environment to reflect a current bid associated with the item during the live portion of the auction (see page 6, lines 5-11).

Dinwoodie discloses one or more online bidders bidding against one or more live bidders participating in the live portion of the auction (see page 7, lines 5-12) but does not disclose a proxy bidder for the online bidders and the proxy bidding is accomplished by accepting a bid from one or more online bidders reflecting the online bidders' maximum proxy price and bidding on behalf of the one or more online bidders of the auction until each of the one or more online bidders' maximum proxy price has been met.

However, Fisher discloses an auction manager serves as a proxy bidder for the online bidders...reflecting the online bidder's maximum proxy price and bidding on behalf of the online bidders...until...maximum proxy price is met (see col. 9, 18-24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the bidding process of Dinwoodie to include the feature of Fisher where a proxy bid is submitted on behalf of the bidder that include the maximum proxy price so that it ensure bidder's bidding would not be missed due to communication delay.

Regarding to claim 6, Dinwoodie discloses a machine-readable medium having stored thereon data representing sequences of instructions, the sequence of instructions which, when executed by a processor, cause the processor to perform the steps of:

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establishing a starting bid for an item for a live portion of an auction by performing a pre-auction bidding process in an online environment for a predetermined amount of time (see Fig. 1, item 16, page 3, lines 30-31, page 5, line 30-page 6, line 5, page 7, lines 22-23);

communicating the starting bid for the item to the live portion of the auction (see page 6, lines 5-11); and

during the live auction portion of the auction updating bidding information associating with the item in the online environment to reflect a current bid associated with the item in the live portion of the auction (see page 7, lines 23-26),

Dinwoodie discloses accepting a bid from an online bidder in the online environment, and bidding against one or more live bidders that are present at the live auction portion of the auction but does not discloses said bidding reflecting the online bidders's maximum proxy price until the maximum proxy price has been met.

However, Fisher discloses an auction managers acts as a proxy bidder that bids for online bidders based on online bidders' maximum proxy price and said bidding is bided until the maximum proxy price has been met (see col. 9, lines 18-24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the proxy bid feature of Fisher continue to bid for bidder online until it reach the maximum proxy price in order to ensure that bidder would not miss the bidding due to communication delay.

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Conclusion

5. Claims 1-6 are rejected.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-BusinessWire discloses in "Bid.com announces www.dutchauction.com" online Bid.com's new launching of website for online auction.

-Internet Business News discloses in "Auction house moves for Internet business" announced of a new live online auctioneering service.

-Woolston discloses a method and apparatus for creating a computerized market for used and collectable goods by use of a plurality of terminals.

-Huberman discloses a method and system for providing a document service over a computer network using an automated brokered auction.

-Fujisaki discloses an auction information transmission processing with at least a stage of a plurality of intermediate front computers.

-Ausubel discloses a method and apparatus for executing an auction with at least two intelligent system, an auctioneer and a user.

-Conklin et al. discloses a system for interactive multivariate negotiations over a network.

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7. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 305-9051, (for formal communications intended for entry)

Or:

(703) 305-0040, (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tongoc Tran, whose telephone number is (703) 305-8967 and whose e-mail address is Tongoc.Tran@uspto.gov. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached at (703) 305-9768. The fax phone number for this Art Unit is (703) 305-0040.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

TT
15Nov00


JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
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